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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,834	12/29/2004	Lance Fuller Manlove	TPP 31446A	4351

24257 7590 12/27/2007
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EXAMINER

SANDBERG, NOLAN THOMAS

ART UNIT	PAPER NUMBER
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4114

MAIL DATE	DELIVERY MODE
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12/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/509,834	Applicant(s) MANLOVE, LANCE FULLER	
	Examiner NOLAN SANDBERG	Art Unit 4114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/2/06, 9/30/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims 4-23 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 4-24 have not been further treated on the merits.

Information Disclosure Statement

2. Applicant is informed that the German Patent No. DE 9208593 cited in the information disclosure statement filed May 2, 2006 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

3. Claims 4-23 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim 3. See MPEP § 608.01(n). Accordingly, the claims 4-23 have not been further treated on the merits.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 4114

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Natrass et al. (US Patent No. 3,961,655).

Regarding claim 1, it is noted that Fig. 2 and 8 of Natrass et al. disclose a flexible material transfer device for transferring a load contained therein comprising a flexible inner liner (12), having a closed end (20) and an open end (2), a sanitary fitting (13) affixed to the open end of the flexible inner liner, and an outer restraint (1) surrounding the inner liner.

Regarding claim 24, it is noted that Fig. 2 and 8 of Natrass et al. disclose a method of transferring a load comprising providing a material transfer device, the transfer device comprising a flexible inner liner (12), having a closed end (20) and an open end (2), a sanitary fitting (13) affixed to the open end of the flexible inner liner, and an outer restraint (1) surrounding the inner liner and filling the transfer device with the load (Fig. 1).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 4114

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Natrass et al. (US Patent No. 3,961,655) in view of Martin (US Patent No. 3,312,337).

It is noted that Natrass et al. discloses all the claimed limitations except the window for viewing the load. However, Martin discloses a window (22) for viewing the load (A'). Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bag of Natrass et al. with the window of Martin. The motivation to combine is to see the level of fill.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Natrass et al. '655 (US Patent No. 3,961,655) in view of Natrass '440 (US Patent No. 6,056,440).

It is noted that Natrass et al. '655 discloses all the claimed limitations except the inner liner being formed from a plurality of patterns, thermally welded or sewn together. However, Fig. 2 of Natrass '440 discloses the inner liner (100) being formed from a plurality of patterns (120, 150, 140), thermally welded or sewn together (column 4, lines 55-61). Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bag of Natrass et al. '655 with the patterns of Natrass '440. The motivation to combine is to provide more strength in the material.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bunch (US Patent No. 5,365,720) discloses a bag with a window. Navin (US Patent No. 6,305,845 B1) discloses a lined bulk bag. Kraus et al. (US Patent No. 4,159,728) discloses a lined bag with an open end and a closed end.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOLAN SANDBERG whose telephone number is (571)270-3537. The examiner can normally be reached on Monday to Friday from 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Cheng, can be reached on 571-272-4433. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/N. S./
Examiner, Art Unit 4114
12/13/07

/Joe H Cheng/
Supervisory Patent Examiner
Art Unit 4114